

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Proposals for a New FM Radio Broadcast Class C4)	MB Docket No. 18-184
and to Modify the Requirements for Designating)	
Short-Spaced Assignments)	

**REPLY COMMENTS OF iHEARTCOMMUNICATIONS, INC.
ON NOTICE OF INQUIRY**

iHeartCommunications, Inc., as debtor in possession (“iHeart”), submitted Comments (the “iHeart Comments”) on the Commission’s Notice of Inquiry, FCC 18-69 (the “*NOI*”) in the above captioned docket. iHeart does not oppose the creation of a new Class C4. On the other hand, iHeart strenuously opposes the involuntary imposition of Section 73.215 classification on existing Section 73.207 stations. Such action would contribute to a higher “noise floor” overall, remove desired-station service from existing listeners, and limit much needed transmitter-siting flexibility, all for the potential benefit of a limited class of individual stations.

Certainly, individual stations have been encouraged by the proponent in this proceeding, SSR Communications, Inc. (“SSR”), to list their names in support of a new Class C4. If the Commission, after balancing diverse interests, finds that such a new class of station would serve the public interest, it is critical that the guidelines for Class C4 stations are consistent with the current protections to stations that have not chosen Section 73.215 spacing. The record is well developed that the involuntary designation as Section 73.215 facilities of under-class maximum facilities FM stations, as proposed by SSR, would be deleterious to the public interest.

As to the increased noise floor, the *NOI* asked: “[w]ould there be a corresponding detrimental effect on listeners regarding loss of existing interference-free service provided by sub-maximum stations?” and “would the increased density of signals resulting from upgraded stations provide improved FM service coverage, or merely contribute to a higher ‘noise floor’ overall while only modestly benefiting individual stations?” 1/

Addressing those issues, the Joint Statement in which iHeart participated 2/ highlighted the relative inefficiency of a contour protection system, which the Commission recognized when it explained, in regard to existing co- and adjacent channel stations: “any new assignment creates interfering signals over much greater distances than the extent of its service area — thus creating islands of service in the midst of seas of interference....There comes a point of diminishing returns beyond which additional assignments on a channel, even though nominally protecting the ... contour of existing stations, result in over-all inefficiency of use.” 3/ The end result of the weakening of the minimum spacing system would be many small and interference-ridden signals rather than high quality services, that is, the “AM-ization” of the FM band. 4/

iHeart’s Comments also cross-referenced into this docket audience-data studies

1/ See *NOI* at ¶¶ 20, 22.

2/ See Joint Statement of Beasley Broadcast Group, Inc., Bryan Broadcasting Corporation, Clear Channel Communications, Inc. [prior name of iHeart entity], Delmarva Broadcasting Company, Merlin Media License, LLC, and Radioactive, LLC, RM-11643 (October 28, 2011) (the “Joint Statement”).

3/ See Joint Statement at 6 (*citing First Report and Order* at 673 [¶ 29]).

4/ *Accord* National Association of Broadcasters Comments at 8 (“Permitting Class A stations to upgrade and forever lock neighboring stations into their current facilities would increase the noise floor on the FM band while providing minimal benefit to one individual station and harming other broadcasters”).

filed in the FM Translator Interference proceeding establishing that there are multitudes of radio listeners at the edges of a station's predicted protected contour that would be harmed by forced Section 73.215 reclassification, exposing these listeners to loss of service by their favored radio stations. Specifically, the iHeart Comments cited to the recent study of Nielsen-measured listening outside of FM stations' predicted service contours in 43 Nielsen PPM/Diary Combined markets, undertaken by iHeart in connection with MB Docket No. 18-119. 5/ The charts submitted with the Translator Comments document significant Nielsen-measured listeners residing outside of various predicted F(50,50) contours and establish the large numbers and percentages of listeners that tune in and rely on their favorite FM radio stations well past the standard protected F(50,50) contours. 6/ SSR's proposal for involuntary Section 73.215 designation would provide a windfall to stations such as SSR's, allowing such stations to squeeze their way in closer to Metropolitan areas at the expense of established listeners that exist outside protected contours, yet still receive service that they currently rely upon.

iHeart also addressed in its Comments the particular harm from imposing Section 73.215 spacing on the options for FM station relocations, a flexibility that is even more necessary given the pressure that TV repacking is putting on tower slots. As stated by Wheeler Broadcast Consulting: "Many FM radio stations ...share tower space with television stations and

5/ See Comments of Beasley Media Group, LLC, Cox Media Group, LLC, Gradick Communications, LLC, iHeartCommunications, Inc., Neuhoff Corp., Radio One Licenses, LLC/Urban One, Inc. and Withers Broadcasting Companies, MB Docket No. 18-119, at Declaration (Aug. 6, 2018) ("Translator Comments") (incorporated by reference to this docket).

6/ The Nielsen audience study filed with the Translator Comments includes Nielsen-rated FM stations in the 43 analyzed markets and does not segregate listenership between stations operating at maximum class facilities versus sub-maximum facilities. Nevertheless, this Nielsen audience study illuminates the strong degree of distant listenership averaged over all studied FM stations, including both maximum and sub-maximum facility stations.

some of those radio stations will be dislocated due to structural limitations on the tower itself. The proposed involuntary contour protection provisions in the NOI could effectively lock some stations to their site or force them to actually downgrade or substantially degrade their existing service should they lose their lease.” 7/ Most certainly the SSR proposal for involuntary Section 73.215 designation is “in tension with the original purpose of Section 73.215 to afford applicants greater flexibility in the selection of transmitter sites.” 8/

SSR scatters throughout its Comments in this docket disingenuous statements such as: “As *absolutely no prohibited contour overlap* will be observed by the full implementation of the MB 18-184 proceeding, Petitioner respectfully asserts that there is no chance of increased interference as a result of the proposal contemplated herein.” 9/ SSR is conflating predicted protected and interference contours with real-life radio signal reception and actual interference. As amply documented in the Translator Comments studies, in the real world, a useable FM signal does not end at a station’s predicted F(50,50) contour, so that squeezing in new interfering FM signals will indeed increase interference imposed on desired-station listeners.

Likewise, SSR’s claim that the “potential for additional interference caused by FM Class C4 facilities would amount to an insignificant fraction of the noise added to the spectrum by secondary services within the Commission’s recent AM Revitalization efforts,” 10/ misses the

7/ See Wheeler Broadcast Consulting Comments at 5.

8/ See NOI at ¶ 22.

9/ See SSR Comments at 5; *see also id.* at 7 (“there would be no chance for additional interference between FM Class C4 facilities and other services, as no contour overlap will be created”); *id.* at 13 (“there would be no engineering chance of detrimental effect upon listeners of existing underbuilt facilities, as no contour overlap between competing stations would be permitted”).

10/ See SSR Comments at 7.

mark. Commenters such as REC Networks “oppose the proposal to make a nationwide change to §73.215 which would result in a large number of class upgrades (beyond A to C4) causing additional interference to and displacement of LPFM and FM translator stations including those recently obtained in AM Revitalization as well as eliminate future LPFM opportunities for communities of all sizes.” ^{11/} Moreover, even under the rule revisions being considered by the Commission in MB Docket 18-119, Sections 74.1203(a)(3) and 74.1204(f) of the Commission’s rules will continue to provide an interference-protection mechanism for the desired-station’s listeners located outside of the protected contour. No such remedial mechanism would exist between full power FM stations under SSR’s involuntary Section 73.215 proposal.

SSR claims that the “current system has clearly been inefficient to FM Class A operators.” ^{12/} Yet, it is the restrained inefficiency of the current allocation system for all classes that has allowed for the evolution of innovative uses for the FM band. Neither LPFMs nor the recent AM Revitalization FM translator windows would have been possible or as successful in an allocation system that gave priority to squeezing in allocations to the absolute maximum via contour engineering, such as that employed in the portion of the FM band reserved for noncommercial educational stations. As commenter Jeff Sibert states: “While I do support actions that do increase the efficiency of the FM band, there is far too much potential downside to secondary services such as LPFM stations who would be greatly harmed

^{11/} See REC Network Comments at 1. At most, REC Networks would be receptive to a restrictive waiver process for Section 73.215 limited to class A to C4 upgrades for stations that service communities completely outside of an Urbanized Area. See *id.*

^{12/} See SSR Comments at 8.

by this [involuntary Section 73.215] proposal. Many secondary services (both LPFM and FM Translator stations) exist due to holes that occur in the full power table of allocations.” 13/

Educational Media Foundation, also in opposition to SSR’s involuntary Section 73.215 proposal, observes: “More congestion will result if stations are protected only to their actual contours, disrupting existing listening habits and translator operations. In a mature service like FM, where there is substantial service throughout virtually all the country, there is simply no public interest need to squeeze new or improved stations into the spectrum where it will disrupt the already existing service. In those few areas of the country where there is not substantial FM service, there is likely no need to rely on Section 73.215 to allocate new services, or translators and LPFM stations can meet any need which might otherwise exist.” 14/

Other commenters such as Wheeler Broadcast Consulting cite to historical precedents, such as Docket 80-90, as reminders of the downsides of reclassifying existing stations. 15/ Wheeler observes that “[f]orcing involuntary contour protection [on] these radio stations will further degrade their product, the FM signal, and the value of that product.” 16/ Wheeler also identifies

13/ See Jeff Sibert Comments at 3. See also Xperi Corporation Comments at 3 (“as the Commission evaluates the Class C4 proposal, we ask that the agency carefully consider its potential impact on digital broadcasting services so that new and innovative uses of HD Radio technology are not foreclosed prematurely”).

14/ See Educational Media Foundation Comments at 6.

15/ See Wheeler Broadcast Consulting Comments at 4-5.

16/ See *id.* at 5.

potential manipulations that an involuntary Section 73.215 system could foster, with the end result of assisting migrations to larger markets. 17/

The record here demonstrates that the SSR proposal to impose Section 73.215 spacing involuntarily on sub-maximum FM stations of any class might advance the individual interests of certain non-reserved FM band stations, but at a high price to the public interest. Such a proposal would contribute to a higher “noise floor” overall, undermine the current spacing system that accommodates newcomers and innovative uses, including LPFMs and FM translators, as well as restrict flexibility for necessary relocations by existing FM stations, while limiting interference, as the public has come to expect.

17/ *See id.* SSR also surmises “that it is extremely unlikely that a station licensed under Section 73.213 could possibly be negatively impacted” by its proposals in this docket. *See* SSR Comments at 24. SSR does not address that a material number of existing Class A stations are authorized pursuant to Section 73.213 due the 6 kilowatt power rule change and/or waivers of Section 73.207. Such Section 73.213 stations most likely will not be able to take advantage of a new Class C4.

Respectfully submitted,

**iHeartCommunications, Inc.,
as debtor in possession**

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September 10, 2018